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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,923	01/03/2005	Norbert Kroth	1454-1588	7678
21171	7590	03/25/2009		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER KAMPURIA, SHARAD K	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 03/25/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/519,923

**Applicant(s)**

KROTH ET AL.

**Examiner**

SHARAD RAMPURIA

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/03/2009 has been entered.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-18, 21-26 are rejected under 35 U.S.C. 102 (b) as being anticipated by **Park**; **Woo Goo et al.** [US 5912884 A].

Referring to claim 14, **Park** teaches a method for controlling transmission of data in a radio communication system having a hierarchical network architecture (Abstract), comprising: administering physical resources for a data transmission to user equipment by a first device at a first hierarchy within the hierarchical network architecture, the first device providing

a physical radio connection interface to the user equipment; (c.g. hierarchy load distribution; Col. 3; 10-27)

transmitting load information about a current load situation of the physical resources by the first device to a second device at a second hierarchy higher than the first hierarchy within the hierarchical network architecture for controlling a load distribution. (connecting based on the hierarchy load distribution; Col. 3; 10-27)

Referring to claim 15, Park et al further teaches wherein the load information includes load states for an area of the radio communication system supplied by the first device (Col. 2; 23-26).

Referring to claim 16, Park et al further teaches wherein the load information includes load values averaged over time for at least one of defined operating parameters and signaling types of the radio communication system for radio data connections between user equipment and a third device of a lowest hierarchy (Col. 3; 1-7).

Referring to claim 17, Park et al further teaches cell load reporting; and checking on an assignment of user equipment to specific devices of the lowest hierarchy based on said cell load reporting (Col. 3; 10-27).

Referring to claim 18, Park et al further teaches wherein the radio communication system is a cellular radio communication system, and wherein said method further comprises checking on a

handover option for at least one user equipment from a first cell of the radio communication system to a second cell of the radio communication system based on said cell load reporting (Col. 2; 47-51).

Referring to claim 21, Park et al further teaches wherein said cell load reporting includes transmissions depending on specific operational events of the radio communication system (Col. 3; 33-40).

Referring to claim 22, Park et al further teaches wherein said cell load reporting is undertaken as a function of defined load states for the area of the radio communication system served by the first device (Col. 3; 33-40).

Referring to claim 23, Park et al further teaches wherein said cell load reporting is undertaken as a function of defined threshold values for the load states (Col. 3; 33-40).

Referring to claims 24 and 26, Park teaches the controlling a transmission of data packets in a packet data transmission system (Col. 2; 37-40).

*Claim 25* is the **system** claim, corresponding to **method** claim 14 respectively, and rejected under the same rational set forth in connection with the rejection of claim 14 respectively, above.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Park** in view of **Budka; Kenneth Carl et al.** [US 6577871 B1].

As per claims 19-20, **Park** teaches all the particulars of the claim except cell load reporting includes transmissions depending on particular time events. However, **Budka** teaches in an analogous art, that the wherein said cell load reporting includes transmissions depending on particular time events (Column 4, Lines 53-67). Therefore, it would have been obvious to

one of ordinary skill in the art at the time of invention to including cell load reporting includes transmissions depending on particular time events in order to provide a technique for effectively managing processing loads in a communications arrangement.

***Response to Amendments & Remarks***

Applicant's arguments with respect to claims 14-26, have been fully considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or

[EBC@uspto.gov](mailto:EBC@uspto.gov).

/Sharad Rampuria/  
Primary Examiner  
Art Unit 2617